

C O N F I D E N T I A L BRATISLAVA 000780

SIPDIS

STATE FOR L/LEI - K. PROPP, EUR/NCE AND EUR/ERA
PARIS FOR DOJ - K. HARRIS
USEU FOR M. RICHARD
VIENNA FOR DHS/ICE D. MRKVA
DOJ FOR OIA D. GAYNUS

E.O. 12958: DECL: 09/25/2010

TAGS: [KJUS](#) [PREL](#) [EU](#) [LO](#)

SUBJECT: EXTRADITION: SLOVAKIA READY TO SUPPORT, WITH
CONDITIONS

REF: STATE 161305

Classified By: Ambassador Rudolphe Vallee for reason 1.4 (b) and (d)

11. (C) SUMMARY: Justice Minister Daniel Lipsic told Ambassador during his introductory call September 26 that Slovakia hopes to finalize a comprehensive bilateral treaty on extradition during October 17-18 discussions with US negotiators. In reaction to reftel talking points, Lipsic provided us with a MOJ proposal (see text in para 6) for addressing the "extradition of own nationals." Lipsic will present the proposal, which provides two alternatives that focus on the punishments as opposed to the underlying crimes, to the cabinet in the next 7 to 10 days. Post requests any Dept. and DOJ comments on the proposal by COB September 29 so that they can pass them along to the MOJ before the cabinet discussion. END SUMMARY.

12. (C) Ambassador, DCM and Pol/Econ deputy met with Minister of Justice Daniel Lipsic September 26 to discuss next steps on extradition and mutual legal assistance treaties per reftel. The Minister was joined by his office director, Anton Chromik, MOJ's Head of International and European Law, Peter Banas, and Head of EU Affairs, Jana Vnukova. Reftel talking points had been delivered to the Minister's Office on September 12, and discussed in a meeting with MOJ State Secretary Lucia Zitnanska and Jana Vnukova on September 22.

SIPDIS

Zitnanska and Vnukova conveyed that Slovakia "does not want to be the troublemaker" in the US-EU extradition treaty initiative, and that the MOJ would welcome our advisors on October 17 and 18. They said they wanted to follow the lead of the UK (as EU President) and try to complete the extradition treaty by the end of the year.

13. (C) Lipsic likewise expressed his desire to move forward expeditiously and hopes to finalize a comprehensive bilateral extradition treaty during the October 17-18 discussions with USG interlocutors. Although he prefers a more comprehensive bilateral treaty, Lipsic noted that if U.S. and Slovak negotiators are unable to reach an agreement on a bilateral treaty during the October discussions, Slovakia would instead move forward with the implementing instruments for the US - EU treaties. In either case, due to the time lag in preparing the treaty for Parliament and the current pre-election political instability, Lipsic would not expect Parliament to take up ratification proceedings before the end of their current session, though he did not rule out the possibility. Elections are expected sometime between June and September next year, and Parliament can be in session up to three weeks prior to the election.

14. (C) Lipsic provided the Ambassador with two alternative proposals (see text in para 6 below) for the "extradition of own nationals." These proposals are meant to replace the reftel proposed list of serious offenses for which nationals would be extradited, which Embassy presented in draft form (Article 3, Nationality) to the GOS with the reftel talking points. Lipsic explained that the MOJ was more concerned in specifying the type of punishment that extradited Slovak nationals receive, as opposed to negotiating a list of the specific crimes. He noted that the two alternatives are in line with the approach used in other extradition agreements between the US and other unspecified EU countries, and that the Ministry of Foreign Affairs backed these proposals. Alternative One would limit the maximum period of imprisonment for a Slovak national extradited to the U.S. to 8 years, among other conditions. Alternative Two does not limit the period of imprisonment, but allows the Minister of Justice in Slovakia (and his counterpart in the U.S.) to refuse to extradite a national under certain conditions. He hopes to obtain cabinet approval for the proposals October 5 (or October 11 at the latest) so that his negotiators will have a mandate to move forward with us. The cabinet could approve both or just one of the two alternatives. Lipsic stated that he personally preferred Alternative Two, but would support either proposal.

15. (C) COMMENT: Lipsic appears ready to move forward with an extradition treaty. He is confident that the Cabinet will support his proposals, but is also realistic enough to recognize the difficulty in getting Parliamentary support during the current session. We encourage the Dept. and DOJ to provide comments on the MOJ Alternatives by COB September 29 so that we can provide feedback back to the MOJ before the proposals are presented to the cabinet. Minister Lipsic

plans to travel to the U.S. in early November for a "Rule of Law" symposium that is being put on by the American Bar Association/CEELI. He hopes to meet with USG officials during his visit, which provides an opportunity for high-level USG follow-up to the October discussions. END COMMENT.

16. (SBU) BEGIN VERBATIM TEXT OF MOJ PROPOSAL:

Alternatives of extradition of own nationals proposed by the Slovak Republic

ALT 1:

- 1) The requested state shall extradite an accused or convicted person, who is its national, under the conditions that there is no reason for refusal of extradition as stated in Articles ... and:
 - a) such a person is also the national of the requesting state or lodged a request for the citizenship of the requesting state prior the offence has been committed,
 - b) such a person, at the time of the commission of the criminal offence as defined in Article... of this Treaty, had a permanent residence at the territory of the requesting state at least for 3 years,
 - c) such a person is accused or was convicted of a commitment of the criminal offence punishable by the laws of both requesting and requested states, for a maximum period of at least 8 years of imprisonment, or
 - d) such a person has significant ties with the requesting state.
- 2) Paragraph 1 does not apply to cases in which the capital punishment can be or was imposed

ALT 2:

The Contracting Parties extradite their nationals, if conditions of this Treaty are fulfilled. The Minister of Justice of the Slovak Republic and/or of the U.S. may refuse the extradition of the accused or convicted person, who is national of the requested state, in particular, if:

- a) the court decides the extradition is inadmissible,
- b) there is reasonable ground to believe that the criminal proceedings in the requesting state did not or would not comply with the principles of Articles 3 and 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms or that the prison sentence imposed or anticipated in the requesting state would not be executed in accordance with the requirements of Article 3 of the said Convention, (the conditions of Articles 3 and 6 would be defined and there will be no reference to the Convention itself).
- c) there is a reasonable ground to believe that the person whose extradition is sought would in the requesting state be subjected to persecution for reasons of his origin, race, religion, association with a particular national minority or class, his nationality or political opinions or that due to these factors his status in the criminal proceedings or in the enforcement of the sentence would be prejudice, or
- d) taking into account the age and personal circumstances of the person whose extradition is sought, he would most likely be inadequately severely punished by extradition in proportion to the level of gravity of the criminal offence he allegedly committed.

Note: If neither of these alternatives is acceptable, the Slovak Republic is prepared to negotiate the single written instrument. END VERBATIM TEXT.

VALLEE

NNNN